



# Constitutional (127th) Amendment Bill, 2021

## Why in News

The Government is planning to bring a Bill to [Parliament](#) to clarify “**some provisions in the 102<sup>nd</sup> Constitutional amendment Bill**” to restore the **power of the states to identify backward classes**.

- In India, **separate OBC lists** are drawn up by the **Centre and each state concerned**. **Articles 15(4), 15(5) and 16(4)** expressly conferred power on a state to identify and declare the list of socially and educationally backward classes.

## Key Points

### ▪ Background:

- The amendment was necessitated after the [Supreme Court](#) in its ruling earlier this year upheld the **102<sup>nd</sup> constitutional amendment** but said the **President**, based on the recommendations of the [National Commission for Backward Classes \(NCBC\)](#), would determine which **communities would be included on the state OBC list**.
- The **102<sup>nd</sup> Constitution Amendment Act of 2018** inserted **Articles 338B and Article 342A (with two clauses)** after Article 342.
  - **Articles 338B** deals with the structure, duties and powers of the **National Commission for Backward Classes**.
  - **Article 342A** says that the **President, in consultation with the governor**, would specify the **socially and educationally backward classes**.
- The **ruling struck down the Maratha quota** introduced by the **Maharashtra government** - a politically potent issue in the state.

### ▪ About the Bill:

- It will **amend clauses 1 and 2 of Article 342A** and also introduce a **new clause 3**.
- The bill will also **amend the Articles 366 (26c) and 338B (9)**.
  - It is designed to **clarify that the states can maintain the "state list" of OBCs as was the system before the Supreme Court judgement**.
  - Articles 366 (26c) defines socially and educationally backward classes.
- The **"state list"** will be completely taken out of the **ambit of the President** and will be **notified by the state assembly**.

### ▪ Other Developments on OBCs:

- Some MPs have raised the **issue of defining Creamy Layer** in the ongoing [Monsoon Session](#) of Parliament.
- Further, the [Justice Rohini committee](#) is considering the sub-categorization of OBC quota and if any particular community or group of communities are benefiting most from the OBC quota and how to iron out anomalies.

- The Union Health Ministry has announced 27% **reservation** for the **Other Backward Classes (OBCs)** and **10% quota for the Economically Weaker Sections (EWS)** in the **All India Quota (AIQ) scheme** for undergraduate (UG) and postgraduate (PG) medical/dental courses from 2021-22 onwards.

### Constitution Amendment Bills

- As per the procedure laid down in the Constitution, **Constitution Amendment Bills can be of three types** viz.
  - requiring a **simple majority** for their passage in each House.
  - requiring **special majority** for their passage in each House i.e., a majority of the total membership of a House and by a majority of not less than two-thirds of the members of that House present and voting (article 368).
  - requiring **special majority** for their passage and ratification by Legislatures of **not less than one-half of the States** by resolutions to that effect passed by those Legislatures (proviso to clause (2) of article 368).
    - A Constitution Amendment Bill under article 368 can be introduced in either House of Parliament and has to be passed by each House by special majority.
    - There is **no provision of joint sittings** on a Money Bill or a Constitution Amending Bill.

### Way Forward

- The **Amendment is found necessary** to restore the **powers of the state governments to maintain state list of OBCs** which was taken away by a **Supreme Court interpretation**.
  - If the state list was abolished, nearly 671 OBC communities would have lost access to reservation in educational institutions and in appointments.
  - That would have adversely **impacted nearly one-fifth of the total OBC communities**.
- We cannot have such **Central oversight**. It allows states to respond to **socio-economic requirements which are specific to a state or region, faster**.
- Besides India has a **federal structure and to maintain that structure**, this amendment was essential.

**Source: IE**

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